rests upon a reasonable and just foundation. For the prevention of fraud, the law will hold a party to be concluded by his own act or admission. Surely this can have no application when everything was equally known to both parties, or where the party sought to be estopped was ignorant of the facts out of which his rights sprung, or where the party seeking to conclude him was in no degree influenced by the acts or admissions which are set up." 3 WASHBURN, REAL PROPERTY, Ed. 5, p. 81 states the rule as follows: "The doctrine of estoppel does not apply where everything is equally known to both parties, or where the party sought to be estopped was ignorant of the facts out of which his rights arose." BIGELOW, ESTOPPEL, 437, states that the following elements must be present in order to constitute an estoppel by conduct: 1. There must have been a representation or a concealment of material facts. 2. The representation must have been made with knowledge of the facts. 3. The party to whom it was made must have been ignorant of the truth of the matter. 4. It must have been made with the intention that the other party should act upon it. 5. The other party must have been induced to act upon it. This doctrine of estoppel by conduct, and the requirement of knowledge of facts, applies to the recognition of title in lands. A party in possession of land, even though he recognizes the title of another, may set up title in himself, if he shows that his recognition was based upon a misapprehension of his rights. *Wright* v. *Stice,* 173 Ill. 571. If an acknowledgment of title is produced by imposition, or made under a misapprehension of the rights of the respective parties, defendant cannot be precluded from showing that plaintiff has no title. *Jackson* v. *Spear,* 7 Wend. 401. No case seems to have been decided prior to the principal case, in which the doctrine was applied to a claim to curtesy which plaintiff set up after he had allowed the land to be sold.

EVIDENCE—COMPELLING PARTY TO PRODUCE EVIDENCE AGAINST HIMSELF.—In a criminal prosecution of a druggist for selling liquor illegally, the defendant was compelled to produce the physician's prescription upon which the sales were made in order to refresh the memory of his prescription clerk who was on the stand as a witness for the state. The prescriptions when produced proved to be defective in not embodying the particulars required by Sec. 6, Ch. 32 of the West Virginia Code. Defendant appeals from a conviction on the ground that compelling him to produce the prescriptions was compelling him to produce evidence and be a witness against himself contrary to Art. 3, Sec. 5, Const. of W. Va. *Held,* that doctors' prescriptions were not private documents the enforced production of which would be to compel a party to produce evidence against himself in violation of the constitution of West Virginia. *State* v. *Davis* (1910), — W. Va. —, 69 S. E. 639.

The court in this case specifically holds that a physician's prescription on which a druggist sells intoxicating liquor is not such a private document, as that a party cannot be compelled to produce it. That the privilege extends only to the production of private documents which tend to incriminate the party compelled to so produce them appears to be well settled. WIGMORE EVIDENCE, § 2254, *Ex parte Wilson,* 39 Tex. Cr. R. 630; *Wilson* v. *State,* 41

Tex. Cr. R. 115; *Minters* v. *People,* 139 Ill. 636; *Boyd* v. *U. S.,* 116 U. S. 616. Whether a physician's prescription be a public or private document, however, is not so easily determined. If a druggist were being prosecuted criminally for wrongfully preparing a prescription would he be compelled to produce the prescription, or could a physician be compelled to produce his prescription in a criminal prosecution against himself? While undoubtedly the purpose and effectiveness of the statutes relating to sale of liquor by druggists on a physician's prescription is best conserved by considering such prescriptions to be public documents the production of which can be compelled, still it is not clear why prescriptions for liquor should occupy a unique position merely because of their subject matter. As to what are considered quasi-public documents, the production of which can be compelled, see *Louisville & N. R. Co.* v. *Com,.* 21 Ky. Law Rep. 239; *U. S. Express Co.* v. *Henderson,* 69 Iowa 40. As opposed in principle to the case under discussion see *McGinnis* v. *State,* 24 Ind. 500; *McKnight* v. *U. S.,* 115 Fed. 972; *Lamson* v. *Boyden,* 160 Ill. 613.

EVIDENCE—OPINION AS TO VALUE OF SERVICES—ADMISSIBILITY.—Plaintiff sued defendant Railway Company for damages due to injury received as a passenger, and, as bearing upon the quantum of damages to be awarded, was permitted to state that in her opinion her services as a housekeeper were worth $24 or $25 per month. There was other evidence before the jury as to her daily earnings in another capacity. *Held,* that her opinion as to the value of her services was competent and admissible. *St. Louis & S. W. Ry. of Texas* v. *Horne* (1910), — Tex. Civ. App. —, 130 S. W. 1025.

It is the undoubted general rule that a witness, not called as an expert, must state the facts within his knowledge and observation, and will not be permitted to give in evidence his opinion, inference, or deduction from those facts. *United States* v. *Faulkner,* 35 Fed. 730; *Pacheco* v. *Judson Mfg. Co.,* 113 Cal. 541; *Milledgeville* v. *Wood,* 114 Ga. 370; *Linn* v. *Sigsbee,* 67 Ill. 75; *Bissell* v. *Wert,* 35 Ind. 54; *Hanish* v. *Kennedy,* 106 Mich. 455; *Peerless Machine Co.* v. *Gates,* 61 Minn. 124. See also 5 ENCYC. OF EVID., pp. 651-652 and cases cited. The admissibility of the opinions and conclusions of non-expert witnesses drawn from observation of such matters and conditions as cannot be reproduced and made palpable to the jury, is an exception to the above stated rule. *Baltimore & O. R. Co.* v. *Rambo,* 59 Fed. 75; *Raymond* v. *Glover,* 122 Cal. 471; *Trott* v. *C. R. I. & P.,* 115 Iowa 80; *West Chicago R. Co.* v. *Fishman,* 169 Ill. 195. Within the limits of the exception stated above a witness cannot give her opinion without stating the facts upon which her opinion is based: (*Ardmore Coal Co.* v. *Bevil,* 61 Fed. 757; *Central Ia. R. Co.* v. *Bond,* 111 Ga. 13, 5 ENCYC. OF EVID., p. 569 and cases cited), nor may a witness state his opinion of a matter regarding which the jury is presumptively as capable of forming an opinion as the witness. *Chateaugay Iron Co.* v. *Blake,* 144 U. S. 476; *Strother* v. *Lucas,* 6 Pet. 763; *Hoehn* v. *Chicago P. & St. L. R. Co.,* 152 Ill. 233. While the opinion admitted in the principal case seems in principle to be without the qualities of admissibility just referred to, the following cases support the ruling in the principal case. *Stevens* v. *Walton,* 17 Colo. App. 440; *Ritter* v. *Daniels,* 47 Mich. 617; *Foley*